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2                   IN THE UNITED STATES DISTRICT COURT  
3                   FOR THE WESTERN DISTRICT OF MISSOURI  
                    WESTERN DIVISION

4 UNITED STATES OF AMERICA,            ) Case No. 11-00223-08-10-11-14-  
  ) CR-W-ODS  
5                   Plaintiff,            ) Kansas City, Missouri  
  ) November 10, 2011  
6 v.                                        )  
  )  
7 ROBERT E. MORRIS,                    )  
JEFFREY A. OLSON,                     )  
8 KAREN A. OLSON,                      )  
JENNIFER S. WILSON,                  )  
9                                        )  
                    Defendants.          )  
10 \_\_\_\_\_)

11                   TRANSCRIPT OF DISCOVERY CONFERENCE  
12                   BEFORE THE HONORABLE SARAH W. HAYS  
                    UNITED STATES MAGISTRATE JUDGE

13 APPEARANCES:

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25 produced by transcription service.

1 (Court in Session at 11:26 a.m.)

2 THE COURT: All right. Good morning. We're here on  
3 Case No. 11-223. If counsel would state their appearance.

4 MR. NELSON: Your Honor, Dan Nelson and Tom Larson,  
5 AUSAs for the United States.

6 MR. FOWLER: May it please the Court? Is this  
7 microphone on? May it please the Court? Mr. Morris appears by  
8 phone and by and through Robin Fowler.

9 MR. O'CONNOR: P.J. O'Connor appears on behalf of Karen  
10 Olson, who also is -- appears via conference phone.

11 MS. BLEGEN: Christine Blegen appearing on behalf of  
12 Jennifer Wilson, who appears by telephone.

13 MR. GROMOWSKY: Good morning, Your Honor. John  
14 Gromowsky for Jeffrey Olson, who appears by telephone.

15 THE COURT: All right. Can everyone on the phone hear?  
16 All right. Mr. Morris, are you able to hear us? Ms. Wilson, can  
17 you hear us?

18 MS. WILSON: It's difficult. I can hear you clearly,  
19 but who was just speaking, I couldn't.

20 THE COURT: All right. Mr. Olson, Ms. Olson, can you  
21 hear us?

22 MR. OLSON: Yes.

23 MS. OLSON: Yes.

24 THE COURT: All right. And, Mr Morris, can you hear us?

25 MR. MORRIS: Yes, ma'am.

1           THE COURT: All right. If at any time you can't hear,  
2 let us know. We're going to try to ask everybody to speak into  
3 the microphones and to, you know, make sure we can hear you.  
4 We're here to talk about when the case should be set for trial.  
5 It was originally set on the very first available setting in  
6 November, but given the amount of discovery, I think all counsel  
7 are in agreement, obviously, they cannot be ready to try the case  
8 in November. We've had, because of the number of defendants,  
9 we've had several sessions today to talk about when the case  
10 might be ready for trial. One trial date we've talked about is  
11 April 23<sup>rd</sup>, but for that trial date, if we were going to go to  
12 trial then, the pretrial motions would need to be filed at the  
13 beginning part of January to give us a chance to get all the  
14 briefing done, to get everything heard and orders issued in  
15 advance of our rule date. Another date that we've talked about  
16 would be the July docket. And during our last session, the  
17 attorneys in that session asked for a deadline of April 1<sup>st</sup> for  
18 filing motions and then with a date of April -- 21 days later,  
19 April 22<sup>nd</sup> or thereabouts for the Government to respond. So, I  
20 guess I'm interested in hearing from counsel here today what they  
21 think would be appropriate in terms of pretrial filing deadlines,  
22 which really somewhat dictate then when the trial can be.

23           MR. FOWLER: Your Honor, this is Robin Fowler on behalf  
24 of Mr. Morris. I was present at one of the previous hearings  
25 this morning. I know the Court's aware of this, but just for the

1 record, there are somewhat in excess of 11,000 pages of  
2 discovery. That probably is certainly not all documents are  
3 relevant to all defendants, but it's a large amount of discovery.  
4 It's still, some of it at least, in the -- is still being  
5 produced. I think the January 23<sup>rd</sup> deadline for, or early  
6 January deadline for motions is probably going to be difficult to  
7 meet. On behalf of Mr. Morris, we would prefer the July docket.  
8 I've discussed that time frame with Mr. Morris, and he's  
9 certainly in agreement with it and knows that that will be  
10 excluded for speedy trial.

11 THE COURT: And our only problem, I think, with the July  
12 docket, we already have some lawyers that have cases set on the  
13 July docket. And the issue really is should we just go ahead and  
14 pick the first available docket where we think folks can be ready  
15 and then see if all 14 defendants are truly going to trial then  
16 or, if some people have resolved the case prior to then, if any  
17 of the lawyers remaining have conflicts. But just I want to  
18 assure everybody that if you have another trial setting, we'll  
19 certainly work around that. Government and a number of counsel  
20 have a June trial setting that, I think, would make it difficult  
21 to set this case in June.

22 MR. O'CONNOR: Judge, P.J. O'Connor on behalf of Karen  
23 Olson. I've discussed the continuance request with Ms. Olson.  
24 She's in agreement, and I would ask for at least the July date  
25 just because of that motions deadline in January.

1 MS. BLEGEN: Good morning, Your Honor. Christine Blegen  
2 on behalf of Jennifer Wilson. I have advised Ms. Wilson that  
3 some of the defendants have filed motions asking for the April  
4 docket, and we had discussed that we had no objections to that  
5 date. I had not taken into account the motion deadline being in  
6 January. I don't believe that we have an objection to going to a  
7 later docket.

8 THE COURT: Okay.

9 MR. GROMOWSKY: Your Honor, John Gromowsky for Mr.  
10 Olson. I've discussed with my client the fact that in previous  
11 hearings, attorneys had in this Court had recommended at least  
12 mid-summer and perhaps as late as September docket. My client  
13 has no conflict with any of those dates. I also can be  
14 available, and I do think that trying to file motions, to the  
15 extent there are any, by sometime in January is pretty  
16 unrealistic, given the fact that we're still receiving discovery.  
17 Obviously, the Government's, you know, done their part to get us  
18 the initial discovery. But it's my understanding from listening  
19 in on the last hearing, there's potentially 2 terabytes of  
20 computer data to come, not all of which is particularly relevant  
21 to the case, but that will have to be sorted through by both the  
22 Government and defendants before we can do that. So, I think  
23 that the later trial dates are certainly more realistic.

24 THE COURT: And just so the defendants on the phone  
25 understand, once briefing is completed on motions, the Court then

1 needs an opportunity and a time to review them to look at the  
2 cases to write an order. In addition, if anyone asks for a  
3 hearing, we have to schedule that and get a transcript back. And  
4 then once we issue an order on most pretrial motions, we do it by  
5 Report and Recommendation. And so, we have to allow 14 days  
6 under the rules for you to file objections that the District  
7 Judge would then have to consider. And so, for example, on the  
8 April 23<sup>rd</sup> docket, the last date that we can file Reports and  
9 Recommendations would be April 3<sup>rd</sup>. But if the parties would  
10 take, you know, all of the time given them to file objections, it  
11 really wouldn't leave the District Court much time to consider  
12 the motions. And that's why I was saying in a case with 14  
13 defendants and perhaps multiple motions, we'd want to have our  
14 rulings out by probably mid-March at the latest, which is why we  
15 would have to require that you file your motions in January, let  
16 us take a look at them or have hearings in February and then try  
17 to get rulings out in March. So, I know that seems like kind of  
18 a cumbersome process, but that is really why we need to have the  
19 motion deadline well in advance of the trial setting in these  
20 particular cases. For the July docket, which starts July 9<sup>th</sup>, we  
21 would obviously, our last rule date is June 19<sup>th</sup>. But again,  
22 we'd want to have everything ruled by, you know, the first part  
23 of June. Turning to discovery matters now pertaining to these  
24 defendants, do any of these defendants have prior convictions?

25 MR. NELSON: No, Your Honor.

1 THE COURT: And any statements from any of these  
2 defendants?

3 MR. NELSON: Yes, Your Honor. We have statements from  
4 Mr. and Mrs. Olson and Ms. Wilson.

5 THE COURT: And any evidence obtained by search and  
6 seizure?

7 MR. NELSON: No, Your Honor.

8 THE COURT: Any electronic surveillance?

9 MR. NELSON: Your Honor, while they were not the subject  
10 of classic electronic surveillance, we do have recorded  
11 statements from Mr. and Mrs. Olson and Ms. Wilson.

12 THE COURT: And any lineups or photo -- (sneezing)  
13 pardon me -- I.D.s?

14 MR. NELSON: Your Honor, yes, as to Mr. Morris, and yes,  
15 as to Ms. Wilson.

16 THE COURT: And any informants?

17 MR. NELSON: No, Your Honor.

18 THE COURT: Any promises to witnesses?

19 MR. NELSON: No, Your Honor.

20 THE COURT: Expert testimony?

21 MR. NELSON: Your Honor, the Government anticipates  
22 three expert witnesses. Mark Everson from IRS to testify about  
23 the Fire system, an IRS -- a second IRS witness to testify about  
24 the tax return process and, third, a handwriting expert.

25 THE COURT: All right. Any *Brady* or *Giglio*?



1 MR. NELSON: No, Your Honor.

2 THE COURT: On defendants' behalf, anyone intend to file  
3 motions relating to competency or diminished mental  
4 responsibility?

5 MR. GROMOWSKY: No, Your Honor.

6 MR. O'CONNOR: No, Your Honor.

7 THE COURT: And right now any defenses other than  
8 general denial?

9 MS. BLEGEN: No, Your Honor.

10 THE COURT: Okay.

11 MR. FOWLER: No, Your Honor.

12 THE COURT: Does the Government have relevant offense  
13 conduct?

14 MR. NELSON: Yes, Your Honor.

15 THE COURT: As to all four of these defendants?

16 MR. NELSON: Your Honor, just as to the Olsons.

17 THE COURT: And any Rule 404(b)?

18 MR. NELSON: Yes, Your Honor, as to the Olsons.

19 THE COURT: And will everyone file Jencks Act material  
20 at least ten days prior to trial?

21 MR. NELSON: Yes, Your Honor.

22 MR. FOWLER: Yes, Your Honor.

23 THE COURT: All right. What I plan to do, as a result  
24 of the hearings that I've had now, is meet with the District  
25 Judge, talk to him about how long he thinks, given the volume of

1 discovery, we need to allow for filing pretrial motions, and then  
2 we'll, you know, select the earliest trial date that we can  
3 following the filing and ruling of those motions. Is there  
4 anything else that we need to address?

5 MR. NELSON: No, Your Honor.

6 MR. FOWLER: No, Your Honor.

7 THE COURT: All right. Then we'll be in recess.

8 (Court Adjourned at 11:36 a.m.)  
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5 I certify that the foregoing is a correct transcript  
6 from the electronic sound recording of the proceeding in the  
7 above-entitled matter.

8  
9 /s/ Lissa C. Whittaker  
Signature of transcriber

November 15, 2011  
Date